(2)

No. 86-1969

Supreme Court, U.S.
FILED
SEP 8 1987
JOSEPH F. SPANIOL, JR.
CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1987

SOFIA CAMPOS-GUARDADO, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

CHARLES FRIED
Solicitor General
RICHARD K. WILLARD
Assistant Attorney General
ROBERT KENDALL, JR.
EILEEN A. CARTY
Attorneys
Department of Justice
Washington, D.C. 20530
(202) 633-2217

18 pp

QUESTION PRESENTED

Whether the abuse that petitioner allegedly suffered in El Salvador at the hands of her cousin and others, and the future abuse that she purportedly fears she will suffer if she returns to that country, constitute "persecution or a well-founded fear of persecution on account of * * * membership in a particular social group, or political opinion," as required by 8 U.S.C. 1101(a)(42)(A) in order for petitioner to be eligible for asylum.

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	1
Statement	1
Argument	5
Conclusion	13

TABLE OF AUTHORITIES

Cases:

Artiga Turcios v. *INS*, No. 86-7381 (9th Cir. Mar. 24, 1987)	6
Chavez v. *INS*, 723 F.2d 1431 (9th Cir. 1984)	9
Contreras-Aragon v. *INS*, 789 F.2d 777 (9th Cir. 1986)	9
Coriolan v. *INS*, 559 F.2d 993 (5th Cir. 1977)	9
Florez-De Solis v. *INS*, 796 F.2d 330 (9th Cir. 1986)	9
Guevara Flores v. *INS*, 786 F.2d 1242 (5th Cir. 1986), cert. denied, No. 86-388 (Mar. 23, 1987)	5
Hernandez-Ortiz v. *INS*, 777 F.2d 509 (9th Cir. 1985)	9, 10
INS v. *Cardoza-Fonseca*, No. 85-782 (Mar. 9, 1987)	5, 6
Lazo-Majano v. *INS*, 813 F.2d 1432 (9th Cir. 1987)	6
Lopez v. *INS*, 775 F.2d 1015 (9th Cir. 1985)	9
Martinez-Romero, In re, 18 I. & N. Dec. 75 (BIA 1981), aff'd *sub nom. Martinez-Romero* v. *INS*, 692 F.2d 595 (9th Cir. 1982)	9
Mogharrabi, In re, Interim Dec. No. 3028 (BIA June 12, 1987)	7, 9
Pierre, In re, 15 I. & N. Dec. 461 (BIA 1975)	9
Sanchez-Trujillo v. *INS*, 801 F.2d 1571 (9th Cir. 1986)	7, 9, 11
Zayas-Marini v. *INS*, 785 F.2d 801 (9th Cir. 1986)	9
Zepeda-Melendez v. *INS*, 741 F.2d 285 (9th Cir. 1984)	9, 10

Statute:

Immigration and Nationality Act of 1952, 8 U.S.C. 1101 *et seq.*:	
8 U.S.C. 1101(a)(42)(A)	3, 10
8 U.S.C. 1151(b)	12
8 U.S.C. 1158(a)	3

Statute – Continued: Page

8 U.S.C. 1253(h)(1) 3
8 U.S.C. 1254(e) 12
8 U.S.C. 1430(a) 12

Miscellaneous:

H.R. Conf. Rep. 96-781, 96th Cong., 2d Sess. (1980) 10
H.R. Rep. 96-608, 96th Cong., 1st Sess. (1979) 10
Office of the United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (Geneva 1979) 11
S. Rep. 96-256, 96th Cong., 1st Sess. (1979) 10

In the Supreme Court of the United States

OCTOBER TERM, 1987

No. 86-1969

SÓFIA CAMPOS-GUARDADO, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-12a) is reported at 809 F.2d 285. The opinions of the Board of Immigration Appeals (BIA) (Pet. App. 13a-21a) and of the immigration judge (Pet. App. 22a-29a) are unreported.

JURISDICTION

The judgment of the court of appeals was entered on February 10, 1987. A petition for rehearing and suggestion of rehearing en banc was denied on March 9, 1987 (Pet. App. 30a). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Petitioner is a native and citizen of El Salvador who illegally entered the United States in August 1984. She conceded deportability and applied for asylum and withholding of deportation.

1. Petitioner based her applications on the following testimony, which the immigration judge accepted for purposes of his decision. In February 1984, petitioner traveled two hours from her home in El Salvador to visit her father's brother, the head of an agricultural cooperative formed several years earlier as the result of land reform. Her uncle was apprehensive because two men had demanded money he held for the co-op, and he had refused them.[1] Although frightened, petitioner remained to visit. Later, an older woman and two young men with rifles arrived and knocked down the door. They dragged petitioner, her uncle, and her cousins (a boy and three girls) outside, where they brutally tortured and then shot the uncle and his son. They then raped petitioner's 14-year-old cousin, followed by petitioner and her other cousins. The female accomplice shouted (unspecified) political slogans. The assailants threatened to kill the women unless they fled immediately. Petitioner suffered a nervous breakdown and was hospitalized in San Salvador. Pet. 3-4; Pet. App. 2a-3a, 14a-15a, 24a-25a.

Petitioner's further testimony was as follows. She remained in San Salvador to work in a factory (Pet. App. 3a).[2] On her first visit home, petitioner's mother introduced her to her father's cousins, who had fled from the

---

[1] Petitioner introduced evidence that agricultural cooperatives throughout El Salvador routinely are forced to pay "protection" money to members of both sides of the conflict in El Salvador (Pet. 3; Administrative Record (A.R.) 42-43). Some military personnel extort money from their assigned cooperatives in exchange for not repressing them and as "some insurance against armed robbery by marauding individual bandits" (A.R. 42). Similarly, the guerrillas extort a "war tax" (money or food) in areas where they are active (*ibid.*). Cooperative managers list these "security" monies paid as "administrative costs" (*ibid.*). Petitioner did not know which category these men belonged to—military, guerrillas, or individual bandits (Pet. App. 15a).

[2] During that time, petitioner testified that her commute to work on public transportation had become increasingly dangerous since her

guerrillas and moved into the neighborhood. Petitioner recognized her cousin as one of her assailants. On subsequent visits home, petitioner's cousin-assailant would follow her, steal her money, and threaten to kill her and her family if she revealed his identity. Pet. App. 3a, 16a. She did not. After her workplace in San Salvador was burned down by guerrillas, petitioner returned to live at her parents' home near her cousin-assailant. Because she did not wish to remain there, however, she came to this country.

2. An immigration judge can grant withholding of deportation to a particular country only if he finds that the alien's "life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion" (8 U.S.C. 1253(h)(1)). The judge can grant asylum only if he finds that the alien is a "refugee" (8 U.S.C. 1158(a)), *i.e.*, an alien unwilling to return to his or her country of nationality "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion" (8 U.S.C. 1101(a)(42)(A)). In this case, the immigration judge ruled that, even if the facts are exactly as petitioner alleges, the abuse that she has suffered and the abuse that she fears on return to El Salvador are not based on petitioner's "race, religion, nationality, membership in a particular social group, or political opinion" as required for either form of relief. Pet. App. 22a-29a.

The BIA affirmed (Pet. App. 13a-21a). It held that petitioner was ineligible for asylum or withholding because the harm she fears as a witness to, and victim of, criminal

---

bus frequently was stopped by either the military seeking identification papers, the guerrillas seeking money, or unknown masked men who robbed and abused the passengers (Pet. App. 16a).

violence, *i.e.*, retribution by a perpetrator whom she can identify, is not persecution "on account of * * * membership in a particular social group, or political opinion" (*id.* at 19a). The BIA also observed that, even if the assailants were motivated to kill her uncle because of his political activity, there was no evidence that she was persecuted on account of any political opinion she, herself, possessed or was believed by her attackers to possess (*id.* at 20a). Rather, the evidence revealed that she held no political opinion, and that none was imputed to her during that unfortunate incident because her visit, and consequent assault, were coincidental.[3] Further, the BIA observed that, even if petitioner's cousin had threatened her with future harm, the motivation behind those threats was personal: to deter her from exposing his identity.

On petition for review, the court of appeals unanimously affirmed (Pet. App. 1a-12a). The court noted that the BIA had erred in its determination of the "burden of proof" that petitioner had to meet in order to be eligible for asylum,[4] but it observed that the BIA's denial of

---

[3] In other words, according to the BIA, the violence petitioner experienced at her uncle's farm is no different in this respect from the fact that petitioner happened to work at a factory that was burned down and that she happened to be riding public buses during confrontations with soldiers, guerrillas, or thieves. See Pet. App. 20a. During episodes of violent civil strife, petitioner's risk of harm is shared by the entire populace.

The BIA also pointed out that attacks on El Salvadoran institutions such as co-ops, factories, and public transport may further some governmental goal (to control them), or subversive goal (to destroy them), in addition to any criminal goal to exploit them. The BIA observed, however, that any such generalized political aim clearly is insufficient to prove the required "singling out" of *this* petitioner and the critical "nexus," or causal link, between her injury and the five statutory bases for relief under the Act. See Pet. App. 19a-20a.

[4] The BIA had applied identical standards to determine petitioner's eligibility for asylum and her eligibility for withholding of deporta-

asylum "rested on different substantive grounds: Ms. Campos was found ineligible for asylum because she failed to show that the harm she fears—no matter how likely—is on account of 'political opinion' or 'membership in a social group' as those terms are used in the statute" (*id.* at 12a). The court agreed with the BIA that petitioner's testimony, taken as true, did not establish that required nexus (*id.* at 8a-10a). Petitioner's suggestion of rehearing en banc was denied without dissent (*id.* at 30a-31a).

ARGUMENT

1. Petitioner argues that the court of appeals "adopted the 'clear probability' standard of the BIA in determining whether the persecution petitioner has already suffered, and is likely to suffer in the future, rests on one of the five enumerated statutory bases" (Pet. 8-9). There is no basis for that argument. Nothing in the opinion of the court of appeals suggests that it applied any such standard, nor is it even meaningful to speak in terms of "clear probability" versus "well-founded fear" standards when considering whether an alien's testimony, taken as true, meets the nexus requirements of the Immigration and Nationality Act. All of the officials and judges who have reviewed petitioner's case have assumed that she met the requirement of showing persecution or a well-founded fear of persecution and have denied relief only because petitioner's own testimony shows that any such persecution is not based on any of the criteria specified in the Act.

---

tion. In *Guevara Flores* v. *INS*, 786 F.2d 1242 (1986), cert. denied, No. 86-388 (Mar. 23, 1987), the Fifth Circuit had determined that the standard for eligibility for asylum was lower than the withholding-of-deportation standard. The court of appeals in this case based its rejection of the BIA's position on *Guevara Flores* (Pet. App. 11a). A month after the panel decision in this case, this Court decided *INS* v. *Cardoza-Fonseca*, No. 85-782 (Mar. 9, 1987), reaching essentially the same result as *Guevara Flores*.

Nothing in such a holding is at all inconsistent with anything in *INS* v. *Cardoza-Fonseca,* No. 85-782 (Mar. 9, 1987), which involved only "[t]he narrow legal question whether the ['clear probability' and 'well-founded fear'] standards are the same" (slip op. 26).[5]

---

[5] Petitioner's claim (Pet. 9 n.3) of "an arguable conflict" with *Artiga Turcios* v. *INS,* No. 86-7381 (9th Cir. Mar. 24, 1987), is likewise without foundation. That opinion (which has been withdrawn from publication pending disposition of the government's petition for rehearing, see 813 F.2d 262-266 (bound volume) (editor's note)) is about whether the alien's evidence did or did not show the requisite likelihood of persecution, not about the nexus requirements of the Act.

Although petitioner does not cite the case, we note that one week after *Artiga Turcios* a divided panel of the same court decided a different case involving facts somewhat similar to, but distinguishable from, this case. *Lazo-Majano* v. *INS,* 813 F.2d 1432 (9th Cir. 1987). Like petitioner, the alien in *Lazo-Majano* was an El Salvadoran woman who had been brutalized in her native country. Unlike petitioner, however, that alien was subjected to repeated brutalization by the same man, a member of the military whom she knew well. That man, Sergeant Zuniga, threatened to "expose" her as a subversive (which Zuniga knew she was not). The majority of the Ninth Circuit panel held that the persecution Olimpia Lazo-Majano had suffered at Zuniga's hands was suffered on account of her political opinion: "Zuniga is asserting the political opinion that a man has a right to dominate and he has persecuted Olimpia to force her to accept this opinion without rebellion" (813 F.2d at 1435). The majority found it quite important that Zuniga was a member of the military (despite his low rank): "Olimpia * * * believes that the Armed Force is responsible for lawlessness, rape, torture, and murder. Such views constitute a political opinion" (*ibid.*). And the majority placed considerable importance on Zuniga's threats—although the court recognized that they were cynical—to "expose" Lazo-Majano as a "subversive": "Even if she had no political opinion and was innocent of a single reflection on the government of her country, the cynical imputation of political opinion to her is what counts under both statutes" (*ibid.*). Judge Poole filed a strong dissent (*id.* at 1436-1441).

The reasoning of *Lazo-Majano* is at best questionable—the government's petition for rehearing with suggestion of rehearing en banc is

2. Petitioner also makes the fact-bound claim (Pet. 12-15) that her persecution and fear of persecution do indeed have a sufficient nexus to the statutory criteria to make her eligible for asylum. The court of appeals correctly rejected that argument.

Petitioner's story, which we assume for present purposes to be true, is one of vicious mistreatment by despicable attackers. But, indisputably, the Act does not make eligible for asylum every alien who has suffered mistreatment or has a well-founded fear thereof; rather, it must be shown that the persecution or feared persecution is based on one or more of the five statutory criteria. *Sanchez-Trujillo* v. *INS*, 801 F.2d 1571, 1576 n.7 (9th Cir. 1986) ("The Refugee Act did not comprehend 'refugee' status for everyone who fears adverse treatment by a foreign government, but only when the fear of persecution is on account of 'race, religion, nationality, membership in a particular social group, or political opinion.' "); *In re Mogharrabi*, Interim Dec. No. 3028 (BIA June 12, 1987), slip op. 9 ("It must * * * be remembered that an alien who succeeds in establishing a well-founded fear of persecution will not necessarily be granted asylum. He must also show that the feared persecution would be on account of race, religion, nationality, membership in a particular social group, or political opinion.").

Petitioner attempts in three ways to argue that her persecution or feared persecution was "on account of * * *

---

pending—but, even if credited, it would not apply to this case. The motive of petitioner's cousin—a civilian—is, according to her testimony, to silence her about matters of historical fact. That motive differs from Sergeant Zuniga's supposedly "political" motive to quash opposition to his "opinion" that men have the right to dominate women. And there is no evidence in this case that anyone, even cynically, has ever attributed any political opinion to petitioner. Thus, the factors on which the *Lazo-Majano* panel purported to rely are absent in this case.

political opinion": she asserts that such persecution is "on account of the political opinion held by her uncle and attributed to her; on account of the political opinion motivating her persecutors; * * * or as a witness to a political execution" (Pet. 13 (footnotes omitted)). But the first of those assertions is unsupported by the record, and the second and third are based on misconstruction of the Act.

The BIA was willing to assume that petitioner's uncle was murdered because of his political opinion (Pet. App. 20a), but the record contains no support whatsoever for petitioner's bald assertion that that opinion was "attributed to her." The maltreatment that petitioner suffered was suffered by everyone, including children, who was unfortunate enough to be present at her uncle's farm when the attackers came; there is no evidence, direct or inferential, that the attackers cared whether their victims, other than petitioner's uncle himself, had any particular political views.[6] And the maltreatment that petitioner fears in the future from her cousin-attacker has nothing to do with anyone's political views: according to petitioner's own testimony, the threats she has received were made because she is a witness who could reveal her cousin's crime, not because of any real or imagined political disagreement.

Petitioner's assertion that she is eligible for asylum just because her attackers may have had a political motivation

---

[6] Nor is there the slightest evidence that the attackers cared whether their victims were or were not members of the same family as petitioner's uncle; indeed, one of the attackers was himself a member of that family. It was presence at the farm, not family membership, that led to petitioner's persecution, and it is petitioner's ability to identify one of the attackers, not family membership, that leads to her present fear of persecution if she should return to El Salvador. Thus, petitioner's assertion that her persecution is "on account of membership in [a] particular social group or family" (Pet. 13 (footnote omitted)) is without merit.

is based on a misconstruction of the Act. The cases that she cites do not hold that the persecutor's political motivation by itself is sufficient to make the persecutor's victims or potential victims eligible for asylum.[7] To the contrary, those who suffer or fear persecution at the hands of one side of a political strife such as El Salvador's, but who fear such persecution for reasons other than their own real or perceived political opinions (or race, religion, nationality, or social-group membership), are consistently held to be ineligible for relief. See *Zepeda-Melendez* v. *INS*, 741 F.2d 285, 289-290 (9th Cir. 1984); see also *Sanchez-Trujillo* v. *INS*, 801 F.2d at 1581; *Florez-De Solis* v. *INS*, 796 F.2d 330, 335 (9th Cir. 1986); *Contreras-Aragon* v. *INS*, 789 F.2d 777 (9th Cir. 1986); *Zayas-Marini* v. *INS*, 785 F.2d 801 (9th Cir. 1986); *Lopez* v. *INS*, 775 F.2d 1015 (9th Cir. 1985); *Chavez* v. *INS*, 723 F.2d 1431, 1434 (9th Cir. 1984); *In re Mogharrabi*, slip op. 9; *In re Martinez-Romero*, 18 I. & N. Dec. 75 (BIA 1981), aff'd per curiam *sub nom. Martinez-Romero* v. *INS*, 692 F.2d 595 (9th Cir. 1982); *In re Pierre*, 15 I. & N. Dec. 461 (BIA 1975). It is a sad fact of

---

[7] The statement petitioner quotes (Pet. 13 n.8) from *Coriolan* v. *INS*, 559 F.2d 993, 1001 (5th Cir. 1977)—a decision by the same court that decided petitioner's case—is dictum describing the factual truth that one may be persecuted without taking political action, not a statement that such persecution renders all such victims eligible for relief. The statement petitioner quotes from *Hernandez-Ortiz* v. *INS*, 777 F.2d 509 (9th Cir. 1985), is directly *contrary* to her assertion that the persecutor's political motivation is sufficient to create asylum eligibility in the victim without any real or perceived political opinion on the part of the victim. 777 F.2d at 516 (emphasis added) ("persecution occurs *only* when there is a *difference of views* between the persecutor's views or status and that of the victim"). The thrust of this entire section of the *Hernandez-Ortiz* opinion is that the political motivation of the persecutor is *relevant* and that its relationship with the real or perceived political opinion of the victim should be examined, not that the political motivation of the persecutor, by itself, can ever be *determinative*. See *id.* at 516-517.

life in many countries that those who have political ends sometimes wreak violence on wholly innocent, apolitical victims; but, as the courts have consistently recognized, that fact does not convert such persons into victims of "persecution on account of * * * political opinion."[8]

Petitioner's third attempt to establish a nexus is the assertion that any "witness to a political execution" necessarily suffers or fears persecution on account of political opinion. But there is no decision of any court—nor does petitioner even claim that there is any decision—supporting that construction of the statute. Rather, as the cases discussed above show, the bare minimum showing needed to make out a case of persecution on account of political opinion is that the alien at least had some political opinion attributed to him or her by the persecutor (see, *e.g.*, *Hernandez-Ortiz*, 777 F.2d at 516-517; *Zepeda-Melendez*, 741 F.2d at 289); there is no

---

[8] As the Ninth Circuit put it, in order to prove eligibility for asylum or withholding of deportation based on a claim of political persecution, the applicant must show "persecution *resulting from* the petitioner's political beliefs." *Zepeda-Melendez*, 741 F.2d at 289 (emphasis added). In defining "refugee" status "on account of * * * political opinion" (8 U.S.C. 1101(a)(42)(A)), Congress noted that term's potential application to "political or religious dissidents," "prisoners of conscience," and "political prisoners" (H.R. Rep. 96-608, 96th Cong., 1st Sess. 9 (1979)). As the court of appeals correctly observed in this case (Pet. App. 9a), Congress declined to adopt in the Refugee Act of 1980 the Senate version of the "refugee" definition, which would have included persons "displaced by military or civil disturbance or uprooted because of arbitrary detention" and unable to return to their "usual place of abode" (see S. Rep. 96-256, 96th Cong., 1st Sess. 4 (1979); H.R. Conf. Rep. 96-781, 96th Cong., 2d Sess. 19 (1980)). Thus, Congress declined to accord refugee status to aliens facing the ordinary dangers and dislocations accompanying civil war. As the court of appeals stated in this case: "Congress did not intend to confer eligibility for asylum on all persons who suffer harm from civil disturbances—conditions that necessarily have political implications" (Pet. App. 9a).

necessary relationship between witnessing a political killing and holding, or being perceived to hold, any particular political view. In this case, petitioner's own testimony shows that her cousin has threatened her in order to intimidate her into silence about his criminal acts, not because of any political views that he thinks she holds.

In addition to these unavailing attempts to fit herself within the statutory criteria, petitioner argues (Pet. 13-15) that the total of her evidence somehow exceeded the sum of its parts, and that the court of appeals erred by not taking a cumulative approach of some sort.[9] But the incidents of random violence that petitioner described in her testimony—bus stoppings by the military and the guerrillas alike, and the burning of a factory by guerrillas (see Pet. App. 16a)—only reinforce the inference that petitioner's misfortune is unrelated to her real or imagined political opinions or social ties. Petitioner's evidence shows that her experiences at the co-op, at the factory, and on public buses indeed reflect isolated incidents—involving a variety of actors, victims, and possible motives—in which petitioner unfortunately was "at the wrong place at the wrong time" (*Sanchez-Trujillo,* 801 F.2d at 1581). Thus, although the cumulative approach for which petitioner contends does reinforce her (already strong) case that she has well-founded fears, it does nothing to aid her

---

[9] In support of a cumulative approach, petitioner quotes (Pet. 14) paragraph 201 of Office of the United Nations High Commissioner for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (Geneva 1979). The quoted paragraph, however, stands for the unremarkable proposition that an alien's total experience may show that his or her fear of persecution is well founded even though no one incident alone would make out a well-founded fear of persecution. In this case it is undisputed (at least for present purposes) that petitioner's fear of persecution is well founded, and the question is whether the feared persecution is based on one of the criteria specified in the Act.

argument on the dispositive issue whether her fears relate to any criterion or criteria specified in the Act.

3. Despite the holding of the court of appeals that petitioner is statutorily ineligible for asylum or withholding of deportation, petitioner is for other reasons not now subject to deportation. Petitioner has been married since September 1985 to a citizen of the United States, and her application for an immigrant visa as an "immediate relative" (see 8 U.S.C. 1151(b)) is pending. The INS District Director in Miami, Florida (where petitioner and her husband now reside), has granted petitioner the privilege of extended voluntary departure (see 8 U.S.C. 1254(e)) until March 1988—by which time it is expected that petitioner's application for an immigrant visa will have been processed.

Although the consideration of petitioner's application is not yet formally complete, we are advised by the District Director that petitioner is prima facie eligible for the immigrant visa that she seeks and that she will receive such a visa in the absence of unforeseen circumstances.[10] Once she is admitted under an immigrant visa as a permanent resident, petitioner will become eligible in three years (see 8 U.S.C. 1430(a)) to become a citizen of the United States (again in the absence of unforeseen circumstances, such as petitioner's dissolving her marriage or committing a serious crime).

For this reason, as well as the lack of merit in petitioner's legal contentions, this is not a case that warrants review by this Court.

---

[10] We shall advise the Court of the disposition of petitioner's application for an immigrant visa if the petition for a writ of certiorari is still pending at that time.

CONCLUSION

The petition for a writ of certiorari should be denied.
Respectfully submitted.

CHARLES FRIED
Solicitor General
RICHARD K. WILLARD
Assistant Attorney General
ROBERT KENDALL, JR.
EILEEN A. CARTY
Attorneys

SEPTEMBER 1987

U.S. GOVERNMENT PRINTING OFFICE 1987 – 181 483/60010